

(b) A non-exclusive transshipment agreement is exempt from the filing requirements of the Act and of this part, provided that the tariff provisions set forth in paragraph (c) of this section and the content requirements of paragraph (d) of this section are met.

(c) The applicable tariff or tariffs shall provide:

- (1) The through rate;
- (2) The routings (origin, transshipment and destination ports); additional charges, if any (*i.e.* port arbitrary and/or additional transshipment charges); and participating carriers; and
- (3) A tariff provision substantially as follows:

The rules, regulations, and rates in this tariff apply to all transshipment arrangements between the publishing carrier or carriers and the participating, connecting or feeder carrier. Every participating connecting or feeder carrier which is a party to transshipment arrangements has agreed to observe the rules, regulations, rates, and routings established herein as evidenced by a connecting carrier agreement between the parties.

(d) Nonexclusive transshipment agreements must contain the entire arrangement between the parties, must contain a declaration of the nonexclusive character of the arrangement and may provide for:

- (1) The identification of the parties and the specification of their respective roles in the arrangement;
- (2) A specification of the governed cargo;
- (3) The specification of responsibility for the issuance of bills of lading (and the assumption of common carriage-associated liabilities) to the cargo interests;
- (4) The specification of the origin, transshipment and destination ports;
- (5) The specification of the governing tariff(s) and provision for their succession;
- (6) The specification of the particulars of the nonpublishing carrier's concurrence/participation in the tariff of the publishing carrier;
- (7) The division of revenues earned as a consequence of the described carriage;
- (8) The division of expenses incurred as a consequence of the described carriage;

(9) Termination and/or duration of the agreement;

(10) Inter-carrier indemnification or provision for inter-carrier liabilities consequential to the contemplated carriage and such documentation as may be necessary to evidence the involved obligations;

(11) The care, handling and liabilities for the interchange of such carrier equipment as may be consequential to the involved carriage;

(12) Such rationalization of services as may be necessary to ensure the cost effective performance of the contemplated carriage; and

(13) Such agency relationships as may be necessary to provide for the pickup and/or delivery of the cargo.

(e) No subject other than as listed in paragraph (d) of this section may be included in exempted nonexclusive transshipment agreements.

(f) The filing fee for such agreements is described in § 535.401(f).

[49 FR 45351, Nov. 15, 1984 as amended at 49 FR 48927, Dec. 17, 1984; 59 FR 63908, Dec. 12, 1994; 61 FR 11574, Mar. 21, 1996]

§ 535.307 Marine terminal agreements—exemption.

(a) *Marine terminal agreement* means an agreement, understanding, or association written or oral (including any modification, cancellation or appendix) that applies to future, prospective activities between or among the parties and which relates solely to marine terminal facilities and/or services among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers that completely sets forth the applicable rates, charges, terms and conditions agreed to by the parties for the facilities and/or services provided for under the agreement. The term does not include a joint venture arrangement among marine terminal operators to establish a separate, distinct entity that fixes its own rates and publishes its own tariff.

(b) *Marine terminal conference agreement* means an agreement between or among two or more marine terminal operators and/or ocean common carriers for the conduct or facilitation of marine terminal operations

which provides for the fixing of and adherence to uniform maritime terminal rates, charges, practices and conditions of service relating to the receipt, handling, and/or delivery of passengers or cargo for all members.

(c) *Marine terminal discussion agreement* means an agreement between or among two or more marine terminal operators and/or marine terminal conferences and/or ocean common carriers solely for the discussion of subjects including marine terminal rates, charges, practices and conditions of service relating to the receipt, handling and/or delivery of passengers or cargo.

(d) *Marine terminal interconference agreement* means an agreement between or among two or more marine terminal conference and/or marine terminal discussion agreements.

(e) All marine terminal agreements, as defined in § 535.307(a), with the exception of marine terminal conference, marine terminal interconference and marine terminal discussion agreements as defined in § 535.307 (b), (c) and (d) are exempt from the waiting period requirements of section 6 of the Shipping Act of 1984 and part 535 of this chapter on the condition that they be filed in the form and manner presently required by part 535 of this chapter.

(f) Agreements filed for and entitled to exemption under this paragraph will be exempted from the waiting period requirements effective on the date of their filing with the Commission.

(g) The filing fee for such agreements is described in § 535.401(f).

[52 FR 18697, May 19, 1987, as amended at 59 FR 63908, Dec. 12, 1994; 64 FR 11242, Mar. 8, 1999]

§ 535.308 Agreements between or among wholly-owned subsidiaries and/or their parent—exemption.

(a) An agreement between or among wholly-owned subsidiaries and/or their parent means an agreement under section 4 of the 1984 Act between or among an ocean common carrier or marine terminal operator subject to the 1984 Act and any one or more ocean common carriers or marine terminal operators which are ultimately owned 100 percent by that ocean common carrier or marine terminal operator, or an agreement between or among such

wholly-owned carriers or terminal operators.

(b) All agreements between or among wholly-owned subsidiaries and/or their parent are exempt from the filing requirements of the 1984 Act and of this part.

(c) Common carriers are exempt from section 10(c) of the 1984 Act to the extent that the concerted activities proscribed by that section result solely from agreements between or among wholly-owned subsidiaries and/or their parent.

(d) All agreements between or among wholly-owned subsidiaries and/or their parent are exempt from the requirements of § 535.301(f) of this part.

(e) The filing fee for such agreements is described in § 535.401(f).

[53 FR 11073, Apr. 5, 1988, as amended at 59 FR 63908, Dec. 12, 1994; 61 FR 11574, Mar. 21, 1996]

§ 535.309 Miscellaneous modifications to agreements—exemptions.

(a) Each of the following types of modifications to agreements is exempt from the notice and waiting period requirements of the Act and of this part provided that such modifications are filed for informational purposes in the proper format:

(1) Any modification which cancels an effective agreement.

(2) Any modification to the following:

(i) Parties to the agreement (limited to conference agreements, voluntary ratemaking agreements having no other anticompetitive authority (e.g., pooling authority or capacity reduction authority), and discussion agreements among passenger vessel operating common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements and which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

(ii) Officials of the agreement and delegations of authority.

(iii) Neutral body policing (limited to the description of neutral body authority and procedures related thereto).

(b) Any modification exempt under paragraph (a) is effective upon filing.